



U.S. Department of Justice

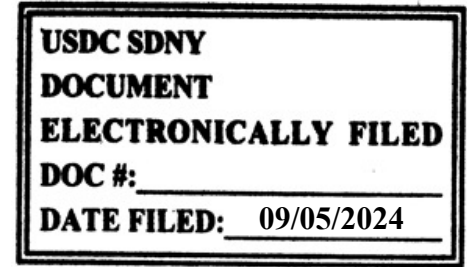
United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

September 5, 2024

By ECF

The Honorable Katharine H. Parker
United States Magistrate Judge
United States Courthouse
500 Pearl Street
New York, NY 10007



MEMO ENDORSED

Re: *Moody v. U.S. Equal Employment Opportunity Commission et al.*, No. 24 Civ. 3320
(RA) (KHP)

Dear Judge Parker:

This Office represents the U.S. Equal Opportunity Commission (the “Government” or “EEOC”) in the above-referenced employment discrimination action. We write to respectfully request an extension of time for the parties to submit a proposed Case Management Plan and Scheduling Order, and a continuance of the initial conference scheduled for September 17, 2024. See ECF No. 12.

The reason for this request is that the parties believe it would be most efficient to allow the Government to answer or otherwise respond to the complaint before commencing discovery. The Government was served with the complaint on August 22, 2024. Accordingly, under Federal Rule of Civil Procedure 12(a)(2), the EEOC has until October 21, 2024 to respond.

In addition, Plaintiff appears to bring a First Amendment *Bivens* claim against the EEOC investigators in their individual capacities. See Compl. at 4. With respect to those claims, this Office is in the process of obtaining authority to represent EEOC Investigators Luis Calzada, William Sanchez, Madeline McGrath, and Alexander Adeshchenko.¹ Current or former federal employees may be entitled to representation by the Department of Justice for claims brought against them in their individual capacity. 28 C.F.R. § 50.15(a) provides that “a federal employee . . . may be provided representation in civil . . . proceedings in which he is sued, subpoenaed, or charged in his individual capacity, . . . when the actions for which representation is requested reasonably appear to have been performed within the scope of the employee’s employment and the Attorney General or his designee determines that providing representation would otherwise be in the interest of the United States.” EEOC is in the process of preparing and submitting

¹ Separately, it appears that the Clerk of Court inadvertently listed both Damian Williams and Yaw Gyebe, Jr. as Defendants in this action after the orders of service were issued. See Compl. at 2-3, Dkt. Nos. 16-18. Accordingly, the Government respectfully requests that the Court direct the Clerk to terminate these parties as defendants in this action. Plaintiff does not consent to their removal, and indicated to the undersigned that she would “leave that issue for Judge Parker to decide.”

representation requests for each of the EEOC investigators. As such, this Office does not currently represent the individual defendants as to the claims asserted against them in their individual capacities, but expects to do so if their requests for representation are approved.

This is the Government's first request for an extension of these deadlines. Plaintiff consents to the requested extensions.

We thank the Court for its consideration of this request.

Respectfully,

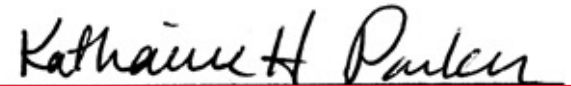
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cc: *Pro Se* Plaintiff (By ECF)

APPLICATION GRANTED: The Initial Conference set for 9/17/2024 at 12:00 PM in Courtroom 17D, 500 Pearl Street, New York, NY 10007 is hereby rescheduled to Wednesday, November 6, 2024 at 12:00 p.m.
The Clerk of Court is directed to mail a copy of this endorsement to the Plaintiff.

APPLICATION GRANTED



Hon. Katharine H. Parker, U.S.M.J.

09/05/2024